IN THE

Supreme Court of the United States

OCTOBER TERM, 1963

No. 141

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL No. 12, *et al.*,

Appellants,

vs.

THOMAS M. DEACON,

Appellee.

On Appeal From the District Court of Appeal of the State of California, Second Appellate District

REPLY OF THOMAS M. DEACON, APPELLEE, TO APPELLANTS' JURISDICTIONAL STATEMENT

THOMAS MICHAEL DEACON
1220 South Western Avenue
Los Angeles, California 90006

Appellee
In Propria Persona

IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 841

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL NO. 12, *et al.*,

Appellants.

vs.

THOMAS M. DEACON,

Appellee.

On Appeal From the District Court of Appeal of the State of California, Second Appellate District.

REPLY OF THOMAS M. DEACON, APPELLEE, TO APPELLANTS' JURISDICTIONAL STATEMENT

To the Honorable, the Chief Justice of the United States of America, and the Justices of the Supreme Court of the United States of America:

Thomas M. Deacon appears in this matter in his own behalf. He does so because of his perfect confidence that the Justices of this Honorable Court will see the weaknesses of Appellants' Jurisdictional Statement as clearly and readily as any lawyer he might employ and without the need of assistance from any such lawyer.

It seems to Appellee as a layman that the keynote of Appellants' effort is sounded in the last sentence of their brief wherein their lawyers state: "We suggest that this court seek from the Attorney General of the State of California an *amicus curiae* brief."

This case is purely the litigation of private citizens, a case between a humble, truth-seeking, justice-seeking private citizen and a labor union of which he is a member. The Attorney General of the State of California is a public official, whose duties in the service of the public are clearly defined in California law, and who has no authority whatsoever to participate on either side of private, civil litigation. Any time he might spend on this particular civil controversy between private citizens would be taken from the public which pays him for serving them in matters outlined in the law of his authority. It is significant that in making their suggestion that this sort of conduct by a public official be invited by this Honorable Court, counsel cites no authority in law, morals or policy to support such a suggestion.

Appellee feels that the Appellants were not quite as frank with this court in their statement as duty required them to be. If it ever should be noted that Appellee is in error in this feeling, he will be only too eager to apologize. Appellants' brief seems to insinuate that the Appellants were denied an opportunity to present evidence to the trial court; indeed to insinuate that no proper evidence was received.

The best answer to this innuendo is set forth in the Opinion of the District Court of Appeal of California,

Appendix C to the brief, pp. 7-10 of the appendices. The court states:

> "The matter was heard on the petition, the answer, and affidavits supporting and opposing the petition."

It was so heard, of course, on the stipulation of the parties and with their knowledge and consent. Appellants did not request leave to present any other evidence, and they do not say that they did. The District Court of Appeal, after making the foregoing statement, sets forth an accurate summary of the evidence.

It, of course, is not necessary, but Appellee would note the fact that when the Supreme Court of California denied Appellants' petition for a hearing, it had before it all the records of the case, and its denial without any dissent constituted a full affirmance of the decisions of the trial court and the District Court of Appeal.

This Appellee does not have the audacity to believe that he could indite a better answer to Appellants' brief than that which now exists in:

1. The Opinion of the District Court of Appeal of California (Appendix C).

2. The pertinent law. (Appendix D).

3. The uniform and unanimous decisions of all California courts involved, including the Supreme Court of the State.

4. The fact that Appellant impliedly admits the truth that it never has permitted this Appellee, a member of the Appellant Union, to see the books and records which

he believes he must see in the interests of honesty and justice.

5. The impliedly admitted fact that Appellant, for reasons best known to itself, does not want Appellee to see such records.

Appellee respectfully submits that no occasion exists in law, fact or justice, for this Honorable Court to take this case into its labors.

Respectfully submitted,

THOMAS M. DEACON
Appellee